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Grievance procedure for civilian employees of the United States Navy

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GRIEVANCE PROCEDURE FOR CIVILIAN EMPLOYEES OF THE UNITED STATES NAVY

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GRIEVANCE PROCEDURE FOR CIVILIAN EMPLOYEES OF THE UNITED STATES NAVY

A Thesis

Presented in Partial Fulfillment of the Requirements

for the Degree Master of Science in Public Administration

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PREFACE

Supervision of civilian employees of the Navy is a responsibility which comes to nearly every naval officer at one time or another throughout his career. At times some officers, particularly those of the Staff Corps, such as Civil Engineer or Supply Corps, may find that the majority, or even all of their subordinates are civilian. Line officers may expect less frequent duty assignments involving supervision of civilian employees.

Administrative procedures have been established by the Navy Department, based on legislation and executive orders, prescribing the manner in which civilian employees are recruited, employed, trained, rated, disciplined, promoted, furloughed, reinstated or retired. These are typical of the many administrative actions which the individual civilian employee may experience during his period of Navy employment. One of the more important personnel procedures from the standpoint of the individual employee is contained in Navy Civilian Personnel Instruction 80 (usually abbreviated NCPI 80) on "Grievances and Complaints." This particular NCPI states the manner in which employees may present dissatisfactions arising from their work environment for consideration by Navy management with the expectation that a fair and equitable decision

will be rendered to the individual in each case. A study of this particular NCPI in comparison with grievance procedures commonly found in collective bargaining contracts or agreements between employers and employees in the industrial or commercial world is the method of approach in developing this thesis.

The writer has enjoyed an experience of approximately eleven years in supervising civilian employees of the Navy at various locations throughout the United States and in foreign territories and possessions. At several Naval shore activities, while officially designated as Public Works Officer, the writer has acted as chairman of Field Grievance Advisory Committees established in accordance with NCPI 80, and, in some cases, has functioned in a delegated duty capacity as Civilian Personnel Officer. From those associations and experiences an interest has resulted in the mechanics and formalities of effective grievance procedures; an awareness of some limitations in the current method of handling grievances and complaints; and an appreciation of the importance of sound grievance procedures in molding a loyal and enthusiastic working force of civilian employees of the Navy.

CHAPTER I

INTRODUCTION--THE WORKING FAMILY IN THE NAVY

The civilian employee of the Navy, like his counterpart employed in privately owned industrial or commercial enterprise, is interested in the same fundamental job objectives. The carpenter or shipfitter on the Navy payroll has the same legitimate personal concern in the attainment of fair wages, hours, and working conditions as his brother tradesman employed by the Todd Shipbuilding Corporation. The Navy employed scientist engaged in complex research studies focused on development of guided missiles or extending man's knowledge of the atom is as much interested in achieving a status of economic security for himself and his family as the research physicist under contract with the Du Pont Corporation or the Battelle Memorial Institute. No less is the Navy's GS-3, Clerk Typist, expectant of opportunity for advancement and self-improvement as is her sister worker in the local office of the Fuller Brush Company. And common to all mankind, who are members of the work-a-day world, whether Navy employed or otherwise, is a desire for recognition, acknowledgement of worthwhile accomplishment, and an inner conviction of individual significance. Failure on the part of the individual employee to attain these

legitimate objectives may result in a grievance situation.

As almost any supervisor can testify, grievances can and do occur all too often in the working environment of the reasonably well-adjusted Navy civilian employee. Grievances may be of as many varieties and kinds as there are people at work. Some complaints involve whole bodies of employees; others may be limited to individuals and small groups. Grievances may range from petty differences between an employee and his supervisor to a major issue of such magnitude that it could affect the very ability of an organization to accomplish its major purpose.

Complaints and grievances on the part of civilian employees of the Navy may involve, for example, such matters as the consideration given to seniority by management in the selection of personnel for advancement, the determination by management of within-grade wage or salary levels for employees being transferred under reduction-in-force procedures, and the manner of compensation for overtime work, whether cash payment or compensatory time.

Working conditions are occasionally a source of grievance complaints. The writer recalls an instance at a certain Naval Air Station where it was a routine work assignment for electricians to check and repair aircraft obstruction lights mounted at various levels on three 150-foot tower structures. All of the electricians employed at this particular activity were not physically

capable of climbing the towers and performing the somewhat hazardous work at varying distances above the ground level. So certain electricians were called upon to accomplish this particular work while other electricians being paid similar wages were not expected, by reason of their physical condition, to perform these particular duties. A problem of this type may constitute a recurrent source of grievances, and calls for the exercise of adroitness and skill on the part of management to resolve such situations to the satisfaction of all concerned.

Another frequent source of grievances and complaints in Navy civilian employment, as also occurs in industrial or commercial employment, springs from unsatisfactory working relationships between supervisors or foremen and subordinates, or between fellow workers. Charges of discrimination in the assignment of tasks on grounds of personal, racial, or religious reasons occur from time to time.

Some grievances originate from deficiencies in safety standards or practice, or in maintaining proper standards of sanitation in shops and offices. Use of defective equipment or tools is likewise an occasional source of employee dissatisfaction.

Most grievances encountered in the day-to-day supervision of Navy civilian employees are not, when considered as isolated events, of tremendous import. They ordinarily

do not concern fundamental or historic issues. They are generally of individual significance and to the casual observer may seem, in many cases, to be of almost trivial consequence. Nevertheless, it is of great importance in a human organization that any grievance, no matter how small, be brought to light, given impartial scrutiny, and an equitable adjustment made. One unsatisfied grievance in an organization creates an infectious condition which may serve to generate other grievances. W. L. Mackenzie King, in expressing his views on grievances, emphasized the essential and ethical need for adjustment procedures. He said:

> The germ of discontent is like any other germ: it grows and reproduces and multiplies and there is no germ so virulent as that of unredressed wrong whether the wrong be real or imaginary. Indifference to a wrong begets irritation, and long continued irritation aggravates discontent and causes men to bide their time and seek revenge. Intimation by a workman that conditions are unfavorable discloses the germ of a grievance. To neglect investigation or to delay adjustment merely aggravates the case. A continual adjustment of little things is better than a grand adjustment of many things accumulated over a series of years. The latter usually comes too late.[1]

Unsettled grievances are potential sources of serious labor disputes. Where supervision and management present an attitude of indifference toward grievances or erect

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[1]John A. Lapp, How to Handle Labor Grievances, p. 11.

barriers to a presentation of them, it may be expected that employee morale will be affected, production will drop, an attitude of resentfulness and indifference will appear, turnover and absenteeism will trend upward.[2] Translated into a practical situation, it is possible that on the successful handling of individual grievances could depend the ability of an organization to accomplish its assigned purpose in an efficient and economical manner. It is a cardinal principle that employee grievances should be adjusted promptly and at an early stage.

The Navy is a time-honored military organization governed by military regulations, traditions, and customs. Certain responsibilities, as well as privileges, accrue to those who wear the Navy "blue" by reason of this military heritage. However, in the administration of civilian personnel employed by the Navy these military standards do not apply. The individual Navy civilian employee is governed by the same legislation, executive orders, or regulations of the Civil Service Commission as is any other Federal employee. Federal law states:

> The head of each department is authorized to prescribe regulations not inconsistent with law for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers,

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[2] Leonard J. Smith, Manual for Labor Disputes, p. 6.

and property appertaining to it.[3]

Based on the legal authority quoted above, the group of directives and technical orders which are collectively titled "Navy Civilian Personnel Instructions" constitute the official organ of the Navy Department for the dissemination of overall policies, procedures, and instructions regulating its civilian personnel. The Navy Civilian Personnel Instructions are based on pertinent Federal legislation, Civil Service Rules and Regulations, executive orders of the President, opinions of the Attorney General, decisions of the Comptroller General, and other long established authoritative directives of the Navy Department.[4]

The legal essence of Navy Civilian Personnel Instructions is written indirectly into Navy Regulations which provide that in the administration of civilian personnel matters, commanding officers and other persons in the naval establishment shall be governed by:

(a) applicable provisions of law

(b) applicable provisions of proclamations and executive orders of the President

(c) applicable rules and regulations issued by the Civil Service Commission and other authorized agencies of the government; and

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[3] Navy Civilian Personnel Instruction 1, p. 1.

[4] Ibid., passim.

(d) detailed instructions issued by or under the directions of the Secretary of the Navy.[5]

The Secretary of the Navy has further delegated to the Under Secretary of the Navy the responsibility, in accordance with law and executive orders, for the following functions with respect to civilian personnel management:

(a) promulgation of policies and general procedures

(b) review and evaluation of compliance therewith

(c) issuance of such orders as are required to insure compliance, and

(d) collaboration with the Chief of Naval Operations.[6]

The Under Secretary of the Navy was given direct control over the Office of Industrial Relations in discharging the responsibilities enumerated above.[7] The Office of Industrial Relations is the "nerve center" of the Navy Department concerned with the day-to-day administration of Navy civilian personnel matters.

The Office of Industrial Relations issues Navy Civilian Personnel Instructions, and revisions thereof, at such intervals as conditions may require. Their primary purpose is to provide all officers, supervisors, and

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[5]Navy Civilian Personnel Instruction 1, p. 1.

[6]Secretary of Navy letter of 25 August 1949. Published in Navy Department Bulletin 49-151.

[7]Navy Civilian Personnel Instruction 1, p. 1.

employees with authoritative, over-all, detailed instructions concerning personnel matters. Navy Civilian Personnel Instructions are promulgated in order to achieve the following objectives:

> (a) To assure uniformity insofar as practicable throughout the Navy establishment in the application and interpretation of laws, executive orders, comptroller general decisions, Navy Department policies, and procedures, etc.
>
> (b) To provide between two covers in simple codified form, in serial order, over-all instructions, policies and procedures required to be followed in the administration of programs under the general cognizance of the Office of Industrial Relations which have in the past been promulgated in separate publications or letters as the need for such documents arose.
>
> (c) To assure like treatment, rights and obligations with respect to all civilian employees in the Naval establishment, Navy Civilian Personnel Instructions conform to the guiding principles for the conduct of human relations in dealing with civilian personnel for the entire Department of Defense...[8]

Regulations, directives, official instructions and the like, which have their ultimate source in law, do not operate by and of themselves. While the necessity for comprehensive and clearly expressed official pronouncements and orders in personnel administration is of the essence, it must be remembered that too great faith should not be placed in the procedural or legal aspects alone. Such directives and instructions are "administered" by

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[8] Naval Civilian Personnel Instruction 1, p. 2.

humans. It is in the "administering" process that results are obtained. In turn, the results attained may be either good or bad and will vary in direct ratio to the skill, knowledge, understanding, good judgment, fairness, and tolerance exhibited by those people involved in the administrative process.

With awareness of the fact that grievances occur among civilian employees of the Navy, that a legal and procedural method circumscribes the overall problems related to the management of civilian personnel, and that the application of laws and regulations to specific cases necessarily involves the human element with all its variables, the problem can then be presented: How, in this context, can the Navy best act to resolve grievances of civil employees systematically and satisfactorily? No pat answer will result. Critical attention can, however, be directed to the two basic elements involved in the grievance procedure: first, regulations based on law; and, second, the human administrator who applies the regulation to specific cases.

An appraisal of existing regulations governing grievance procedures and of the demands made upon the human administrator when operating under those procedures will involve comparisons. It is possible that an appraisal of the grievance procedures and practices adopted by industrial or commercial enterprises under the impetus of

liberalized labor laws of the past fifteen years may reveal significant trends, and point the way toward improvement of the Navy's system. On the other hand, it may not. Also, consideration of the duties and obligations which devolve upon the administrator of the grievance procedure under industry's collective bargaining contract, may bring into sharper focus the need for improvement of human relations in the Navy's grievance situation. Again, on the other hand, it may not. With the question open, it is the purpose of this paper to review and compare grievance procedures common to the Navy and industry, point up differences, and present observations and conclusions.

CHAPTER II

THE EXISTING NAVY SYSTEM FOR ADJUSTING GRIEVANCES

Historical Review

The first comprehensive approach to the problem of employee grievances in the federal services dates back to 24 June 1938[1] when executive Order 7916 was issued.[2] This order established the policy that each federal department and agency should have a published grievance procedure which employees could readily invoke for the purpose of adjusting dissatisfactions and grievances arising from the working environment. Prior to 1938, grievance procedures were practically unknown in the federal civil service. Indeed, it was only after enactment of the National Labor Relations Act in 1935 that grievance procedures became a standard provision in labor contracts throughout industry, although many progressive corporations and companies had established them long before that time.[3] By 1940, progress had been made to the point where, with few exceptions, practically every federal department and

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[1] 64th Annual Report of the U. S. Civil Service Commission for Fiscal Year Ended 30 June 1947, p. 55.

[2] Draft Report (for Discussion Only) of Sub-Committee on Grievances and Appeals. Federal Personnel Council, Civil Service Commission, July 1950, p. 3.

[3] Ibid., p. 12.

agency had developed and established grievance procedures for civilian employees.

Executive Order 9830 of 24 February 1947 amended Executive Order 7916 of 1938, together with certain previous Civil Service Rules, and, in the way of giving emphasis to personnel administration including grievance procedures, vested the following authority in each agency:

> The head of each agency, in accordance with applicable statutes, Executive orders, and rules, shall be responsible for personnel management in his agency. To assist and advise him in carrying out this responsibility he shall maintain or establish such office or division of personnel as may be required.[4]

Under the authority of the foregoing Executive Order, the Office of Industrial Relations of the Navy Department gave continued effect to Navy Civilian Personnel Instruction 80 on Grievances and Complaints as the officially prescribed method for adjusting grievances of civilian employees.

The Formal Procedure--Navy Civilian Personnel Instruction 80 on Grievances and Complaints.

As background information, it is pertinent to consider certain general introductory provisions written into NCPI 80 which give insight into the Navy Department's philosophy

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[4]Navy Civilian Personnel Instruction 80, p. 1.

of adjusting employee grievances. These are concerned with matters of definition and distinction as to what constitutes a personal grievance as differentiated from group problems. Also, an expression of policy and statement of management's responsibility with respect to employee grievances are to be found in the opening paragraphs of this NCPI. Included also is a detailed discussion of the procedure to be followed by the individual employee in setting the grievance procedure in motion.

NCPI 80 is intended for use in the adjustment of individual grievances. In defining those issues which are eligible for consideration under NCPI 80, the element of personal interest to the employee is stressed as being the dominant criterion. A distinction is carefully drawn between such individualistic grievances and issues which are, on the other hand, of a general nature and involve numbers of people. The latter type of problem is not, in the view of the Navy Department, suitable for presentation under the grievance procedure. Such matters are considered by management in its group dealings with employees as explained in a separate NCPI 60 on Employee (Group) Relations. At the same time a note of caution is introduced, stating that the supervisor is expected to attempt to clear up the problem presented by the employee even though the technical requirements of an individual grievance are not met, or else refer the employee to the

appropriate office or individual for advice or satisfaction. The responsibility rests upon all individuals in whom is vested supervisory or managerial authority to assure the employee that his problem, even though it does not qualify by definition as a grievance, is worthy of consideration and deserves a decision together with an explanation of management's policy in the matter.

An unequivocal statement on the Navy Department policy of recognizing employee grievances and being receptive to them is included in NOPI 80. This is in amplification of the basic Department of Defense policy quoted as follows:

> Any employee having a grievance shall be accorded a fair and prompt discussion with the supervisor immediately concerned and, failing prompt and satisfactory adjustment, he shall have a right to appeal under established grievance procedure. In presenting a grievance, an employee shall be free from interference, restraint, or reprisal, and he may designate a representative of his own choice to assist him.[5]

Expressions of policy are good as far as they go, but they must be given life and substance if they are to accomplish objectives. This is recognized in NOPI 80 where management's responsibilities are delineated.

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[5] Statement of Personnel Policy for Civilian Personnel in the Department of Defense, dated 13 October 1949, by the Secretary of Defense.

Certain positive actions which management must take, in addition to having the good intention to recognize and eliminate sources of grievances, are presented. They include:

(a) All employees should be informed of the procedure for the initiation and disposition of the grievance action.

(b) All levels of supervision should be trained in their responsibilities in handling employee grievances and appeals in accordance with the prescribed procedure.

(c) Grievances should be settled at as early a stage as possible.

(d) Grievance decisions not favorable to the employee should be fully explained, and the basic authority for the decision, cited.

(e) The Grievance Procedure Chart should be posted prominently in shops and offices. This is a graphic representation of the grievance procedure, together with the minimum essential details of its operation.

(f) Supervisors who engage in discriminatory actions in handling grievances should be effectively disciplined.

Having considered the legal and historical basis of grievance procedures, the definition of a grievance, and the policy and responsibility of management in handling grievances, it is now appropriate to discuss the actual mechanics involved in the adjustment of an employee's grievance. Actually, two separate procedures are set forth

in NOTI 60, one for field employees, and the other for departmental employees. Since both procedures are fundamentally alike, with only minor variations, the procedure for field employees only will be discussed herein.

First Stage - The aggrieved employee is first required to discuss his grievance with the immediate supervisor. The supervisor is expected to investigate the matter in detail, seek such council as may be necessary, and arrive at a decision based on the facts. The NOTI states that it is considered preferable for the aggrieved employee to present his own case, although, if desired, one fellow employee from the same shop or office as the aggrieved employee may assist or participate in the discussion.

Second Stage - In the event that the matter is not settled to the employee's satisfaction at the first stage, an appeal may be submitted, either orally or in writing, to the employee's senior civilian supervisor. The latter is required to make prompt arrangements for a hearing. At this point, either the employee or the senior civilian supervisor may call upon the shop personnel supervisor for assistance on technical points. The employee is required to be present at the hearing. He may select not more than two fellow employees from his own shop or office to accompany and represent him. In addition, witnesses who have personal knowledge of the matter may be called. A record of the hearing must be kept. The decision

rendered by the senior civilian supervisor must be in writing, and if not favorable to the employee, must include reasons therefor with supporting facts. Furthermore, the employee must be notified of his right of appeal to the next, or third, stage.

Third Stage - If the aggrieved employee is not satisfied with the decision rendered at the second stage, he may then submit his grievance in writing to the commanding officer of the activity via his senior civilian supervisor and department head. The senior civilian supervisor is required to attach all second stage hearing records to the employee's letter and forward them to the commanding officer via the department head. At this point, the department head reviews the appeal. If he considers that the employee's position should be upheld, he can so notify the senior civilian supervisor thus closing the case. Or, if the department head concurs with the senior civilian supervisor, the case is forwarded to the commanding officer who is required to convene the Field Grievance Advisory Committee.

The function of the Field Grievance Advisory Committee is to review and investigate grievances appealed to the Third Stage and, after due deliberation on all the facts, to submit appropriate recommendations on the case to the commanding officer. The committee is composed of three members, all appointed by the commanding officer. No

qualifications are established for membership on this committee except that the individuals selected possess general over-all knowledge of the activity and that they have not been involved in any way with the grievance at issue in its first or second stage. One member must be an officer; one member must be a civilian. The third member may be either military or civilian.

The Field Grievance Advisory Committee, upon being convened by the commanding officer, undertakes a review of the case by scrutinizing the written record, hearing testimony from the aggrieved employee or witnesses, and conducting any further investigations which may appear warranted. The employee is required to be present at the hearing and he may select not more than three persons to accompany him. They may be fellow employees or others. It is to be noted, that it is at this point that a person other than a fellow employee may participate in the grievance procedure to assist the aggrieved employee. The committee then prepares its summary of the case, including minority reports if any, and submits recommendations to the commanding officer. The commanding officer reviews the committee's report and notifies the employee in writing of his decision. If the appeal is sustained, the case, of course, is closed; if the appeal is not sustained, then pertinent factual reasons for such action must be given. In addition, the employee must be notified

of his right of appeal to the fourth stage.

Fourth Stage - Assuming that the grievance has not been settled satisfactorily at the third stage, the employee may submit a written appeal to the Under Secretary of the Navy via the particular bureau or office which controls the activity at which he is employed. So that all details of the case will be clearly understood at the departmental level, a special fourth stage appeal form has been prescribed to which a copy of the record of all previous hearings and the personnel folder of the employee are attached. The bureau chief then forwards the complete record of the case to the Under Secretary of the Navy with such recommendations as he may feel to be of value in assisting the Under Secretary to arrive at a final decision. The bureau chief is also required at this time to nominate a person from his organization to serve as a member of the Navy Department Grievance Appeal Board which convenes for a final review and preparation of recommendations to the Under Secretary of the Navy.

The aggrieved employee may request that a hearing be granted by the Navy Department Grievance Appeal Board. The Board may accede to such a request if it considers that additional evidence is required to gain a complete understanding of the case. The employee may be represented by three persons of his own choice at the hearing. The case is then reviewed by the Board and its advisory

recommendations are submitted to the Under Secretary of the Navy. The final step in the appeal process is that of review and decision by the Under Secretary of the Navy. The employee is then notified of the decision and the case closed.

Navy Department Grievance Appeal Board - Since the Navy Department Grievance Appeal Board plays an important role in undertaking the last multi-party review of a grievance case, and since its recommendations carry great weight with the Under Secretary in arriving at a final decision in the matter, it is of interest to consider the composition and procedures of this body. As indicated above, the function of the Navy Department Grievance Appeal Board is to review and submit recommendations on fourth-stage employee grievance appeals to the Under Secretary of the Navy. The Board consists of three members. Two members are designated from the Office of Industrial Relations, one of whom, as principal member, acts as Chairman of the Board. The third member is nominated from the bureau or office concerned in the appeal. Provision for designation of alternate members is also made.

In addition to the three official members of the Board, a Recorder is assigned from the Office of Industrial Relations. The Recorder is responsible for a full presentation of all pertinent facts and for preparation of a

record of all hearings, including both majority and minority opinions in cases of disagreement. He may enter into discussions of the case, but his personal opinions may not be made a matter of official record nor has he the right to vote.

In performing its appellate and advisory function, the Board determines its own internal procedures. It may consider a case on the basis of the record as presented to it, or it may institute further investigations of its own. It may consent to or deny a request for a hearing by the aggrieved employee. Furthermore, it is authorized to call upon any individuals involved in the case for assistance in furnishing records, statements or testimony, either orally or in writing.

The recommendations of the Board, as noted previously, are submitted to the Under Secretary of the Navy as a basis for his review and final disposition of the case. There is no provision for appeal to the Civil Service Commission of an employee grievance arising from the working environment.

Time Limitations for Handling Grievances at Various Stages

Most authorities on grievance procedures agree that the prompt handling of grievance cases is one of the most important factors in the operation of an effective grievance system. Misunderstandings and dissatisfactions which

are not considered and adjusted fairly and with reasonable dispatch invariably pass through a smouldering period and, in the end, assume a seriousness far beyond their initial condition. This circumstance is recognized in the Navy's NPI 80 wherein it is established that employees must submit grievances within a certain time period following their occurrence if they are to be given consideration by management. Time limitations are also set for consideration of a grievance at any given stage beyond which, if the grievance is not settled, it must be passed along to the next higher stage.

In submitting a grievance for consideration under present procedures, Navy employees are expected to present the matter as early as possible and generally within thirty days of its occurrence. There is no specific ban, however, on accepting an older grievance for consideration. A decision at the first stage, which involves the aggrieved and his immediate supervisor, is expected within two working days. At the second stage, which involves the aggrieved and his senior civilian supervisor, a decision should be made within five working days. At the third stage, which involves the aggrieved, the Field Grievance Advisory Committee, and the commanding officer of the activity, a decision is normally expected within ten days. Provision is made for delaying decision at any stage, but the employee is supposed to be officially informed of such

delay with the reason therefor and advised as to the date a decision can be expected. No formal time limitation is established for fourth-stage considerations by management in the office of Under Secretary of the Navy.

Not only are time limitations established for rendering decisions by management at the first three stages, but also the employee is required to observe comparable limitations if he elects to refer his grievance upward through the four-stage procedure. An appeal by an employee must be received within three days after decision at the first and second stage and within ten days after decision at the third stage.

From the foregoing time requirements, it is apparent that, under ordinary circumstances, not more than twenty-three days should occur between the original submission of a grievance and the date of decision by the commanding officer of the activity concerned. The time required for the fourth stage decision in the office of the Under Secretary of the Navy would be in addition and of unknown duration.

Records and Reporting - Minimal requirements for keeping records of grievance cases are established by Navy Department directive which make it necessary for each activity, bureau, or office concerned to record essential details of grievances arising therein which are carried beyond the

first stage. No centralized reporting or auditing of grievance cases occurs.

CHAPTER III

CURRENT CRITICISMS OF GRIEVANCE PROCEDURES IN FEDERAL EMPLOYMENT

Introduction

In the field of employee grievances, which by its very nature is prone to be charged with human emotions and tensions resulting from real or fancied wrongs in the working environment, it is to be expected that questions relating to the adequacy of prescribed procedures will arise frequently and with great variety. A sub-committee of the Federal Personnel Council, in investigating agency grievance procedures, has this to say:

> It is important to note that criticisms which reflect basic dissatisfaction with agency grievance and appeal procedures come with about equal frequency from both management and employees. On the management side there are still signs of reluctance to accept the theory of employee rights and management obligations which underlie formal grievance procedures, and a disposition to regard the procedures as something of a nuisance and an obstacle to proper exercise of disciplinary authority. On the employee side there is plenty of evidence that employees and employee unions lack confidence in the grievance machinery of individual agencies and are anxious to preserve and even extend their rights of appeal outside the agencies to the Civil Service Commission.[1]

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[1] Draft Report (For discussion only) of Sub-Committee on Grievances and Appeals. Federal Personnel Council, Civil

Some of the more frequently voiced criticisms of the present agency grievance procedures have been enumerated by the sub-committee on grievances and appeals of the Federal Personnel Council in its preliminary draft report. These have reference to agency grievance procedures generally and may, or may not, pertain to the Navy Department. Additional criticisms are mentioned which are the judgments and conclusions of the writer based on personal experience in dealing with civilian employees of the Navy under existing grievance procedures.

Common Criticisms of Agency Procedures

The sub-committee of the Federal Personnel Council states the following to be common criticisms of agency grievance procedures:

(a) "Complicated and Time Consuming" - A common criticism of agency grievance procedures is that they are too complicated and time consuming in operation and excessively legalistic in outlook. It is frequently contended that the average employee is "lost" in the technical details of grievance procedure without the assistance of a consultant or grievance steward from the union. From the position of management it is alleged that the average supervisor is handicapped in following

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Service Commission, July 1950, p. 5.

grievance procedures without constant guidance from a personnel technician. Thus it is argued that the fundamental purpose of grievance procedures is vitiated in that the aim of providing a system, whereby employees and management can readily determine basic causes of grievances and find the best way to resolve the dissatisfaction, is not realized.[2]

In considering the foregoing objection, it is necessary to draw a careful distinction between those grievances which are successfully resolved in the first or second stages and those which are carried into the third and fourth stages. In the former situation, an air of informality may prevail, since only first and second line supervision is involved and the grievance may not even be reduced to writing. The criticism of procedures being too complicated and time-consuming would not appear to apply to most grievances, since the great majority of them are settled at the first or second stage. Third and fourth stage grievance hearings are surrounded by greater formality, including presentation of a written appeal, and the appointment of a fact finding board which submits a recommendation to the head of the agency, or in the case of the Navy, to the commanding officer and the Under Secretary of the Navy. It is in this area that the

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[2]Sub-Committee on Grievances and Appeals, op. cit., pp. 5-6.

criticism referring to procedural complications is generally encountered.

Realizing that third and fourth stage appeals are, in the main, those in which the employee has an appreciable interest at stake, it would appear that there is no other method to insure fair treatment than to provide ultimate appeal to the highest authority in the agency. The realities of time and distance leave no alternative than that the grievance situation be spelled out explicitly, including the complete history of all preceding hearings, so that the ultimate source of decision in the managerial hierarchy can act in the light of complete and undistorted knowledge of the facts of the case. From this point of view, a "simple" grievance procedure probably never can be realized. In answer to the objection that existing procedures in the advanced stages are too time consuming, it is pertinent to observe that no grievance machinery can be self-operating. In a grievance situation, other than in the most simple problem, it is expected that management will be called upon to exert its best skills in an unhurried atmosphere so that all facets of the problem at issue may be brought to light.

Referring to the grievance procedures of certain Federal agencies, the sub-committee states:

> It is probably true, as critics allege, that the procedures of some individual agencies are too

> complicated and time consuming--not because they are too lengthy or detailed, but because they are not sufficiently clear and explicit. The solution is not arbitrary simplification of the procedures, but careful attention to revisions which will clarify doubtful points in the rules and describe a series of clean-cut steps for employees and supervisors to follow. Finally, employees and supervisors alike are entitled to rely on the personnel office for helpful, impartial guidance on every provision of the grievance procedure.[3]

On this score, little or no criticism can be directed at NCII 80 on Grievances and Complaints. Its provisions, admittedly lengthy, are, nevertheless, clearly and explicitly stated and to the personnel technician would present no problem of interpretation. Assuming that the personnel office is adequately staffed, no problem of application of procedures would arise in the Navy situation under normal conditions. However, in periods of declining allotment of funds and organizational contraction, there is an erroneous, although understandable, tendency for local officials to weigh the productivity of the personnel technician against that of the electrician or the draftsman. Too often the decision is unfavorable to the former with the result that grievance procedures, as well as other personnel functions, even though adequately presented "on paper" lose effectiveness in translation to the human situation.

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[3]Sub-Committee on Grievances and Appeals, op. cit., p.7.

(b) "Over-Democratic" - From the management side, criticism is occasionally heard that agency grievance procedures are excessively liberal or "loaded" in favor of the employee so that the process of grievance hearings degenerates into a lengthy and legally flavored series of proceedings in which the supervisor who tends to resist the action is pilloried and placed in the position of a defendant. Thus, it is alleged that supervision is discouraged from adopting firm action in handling such cases even where clearly justified.[4]

Assessment of NCPI 20 on Grievances and Complaints in the light of the "over-democratic" criticism would indicate that the objection has no validity. It is indeed possible that the opposite condition may be evident in some situations, which will be more fully developed in discussing the subsequent general criticism. While Navy civilian employees have recourse to established grievance procedures there are no features of the system which give undue weight to the employee's position.

(c) "Employee Can't Get a Square Deal" - Another common criticism of employees and employee unions is to the opposite effect--that some of the present agency grievance procedures make it difficult or impossible for employees to "get a square deal." This attitude finds

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[4]Sub-Committee on Grievances and Appeals, op.cit. pp. 7-8.

expression in the occasional practice of employees to ignore the agency's appeal channels and to report their troubles directly to their favorite member of Congress or the Civil Service Commission itself.[5]

Deficiencies in procedure, or in the competence of the administrator assigned to make the procedures effective, lie at the root of this objection. The remedy then must take into consideration both sources of possible malfunction of the grievance system.

In an objective analysis of NCPI 80 in the light of this charge, it would appear that a good case could be made for the present Navy system. However, there are objections--two of which are cited for purposes of illustration.

(1) In the first and second stages of the grievance procedure, NCPI 80 restricts those who can appear with, or represent the aggrieved employee, to one and two fellow employees, respectively. And they must be from the employee's own shop or office. In certain occupations or shops, which by their nature attract persons of low socio-economic status, this restriction may effectively block the presentation of a grievance, not for reasons of procedural requirements, but from the personal limitations of the individuals concerned in the use of language,

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[5]Sub-Committee on Grievances and Appeals, op. cit., p. 9.

fluency of expression and similar characteristics. To this extent the criticism of the employee not being able "to get a square deal" has relevancy.

(2) Unilateral determination of membership of the Field Grievance Advisory Board in third stage hearings can operate to prejudice the interests of the employee. In the review of grievance appeals, the reaction of previous levels of authority exerts some influence on higher levels of authority. The Field Grievance Advisory Board is the first point of multi-party consideration of the grievance. The designation of this board by management alone, without opportunity for voice or challenge by the employee, is a device which has the affect, either directly or indirectly, of limiting the employee's opportunity for "getting a square deal."

(d) "Too Many Different Channels and Procedures" - The objection is heard with some frequency that there are a confusing number of procedures and a plethora of channels established for hearing and reviewing the various types of grievances commonly encountered in federal departments and agencies. It is frequently found that the various agencies establish different procedures for the administration of grievances arising from such matters as reduction-in-force, position classifications, efficiency ratings, removal from position, racial or religious discrimination, and the ordinary grievances which originate in the working

environment or relationships. Both employees and first and second line supervision are inclined to be confused by the procedural differences and details which at times may be perplexing even to personnel technicians. The reasons for these diverse methods are rooted in the historical development of employee appeal rights. As legislation or Executive Orders established the right to appeal, there followed specific procedures for a specific type of appeal built up in patch-work pattern over a period of years.[6]

NCPI 80 on Grievances and Complaints provides for exclusion of grievances resulting from the following types of actions and prescribes other procedures for such cases:

(1) Grievances resulting from reduction in force (NCPI 170)

(2) Grievances resulting from position re-classifications (NCPI 155 and 156)

(3) Grievances resulting from efficiency ratings (NCPI 55 and 56)[7]

Reduction of the number of different procedures in effect and the adoption of a unified grievance and appeal system would have distinct advantages in clarifying procedural details in the minds of employees and supervisors

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[6]Sub-Committee on Grievances and Appeals, op. cit., p.10.

[7]Naval Civilian Personnel Instruction 80, p. 1.

alike. On this score it would appear that procedural unification and simplification is an objective worthy of greater effort within the Navy Civilian Personnel Instructions. The sub-committee has this to say:

> Each agency should have a unified grievance procedure with a uniform channel and terminal point for all types of grievances and appeals. The sub-committee believes that such procedures are more possible of realization than is generally assumed and that unification can be substantially achieved within agencies without any new legislation or sweeping changes in civil service regulations.[8]

(e) "Too Much Second Guessing by Civil Service Commission" - One of the criticisms of appeal procedures which engenders the greatest reaction from operating agencies concerns the legislative authority which the Civil Service Commission possesses in hearing employee appeals for certain personnel actions taken by the agencies and in reversing the agency decision if considered justifiable. This does not apply to grievances which spring from the working environment and working relationships, such as those covered by NCPI 80 on Grievances and Complaints. These matters cannot be appealed beyond the agency itself. The criticism of excessive Civil Service Commission authority pertains to grievances which result from reduction-in-force procedures, removals, and such personnel actions

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[8]Sub-Committee on Grievances and Appeals, op. cit., p.17.

which are closely related to job tenure and the employee's future status in the governmental service.[9]

It is conceded that the adoption of statutes and regulations which encourage civilian employees to rely on a final authority outside their own agency have worked to the impairment of the cause of better grievance and appeal administration generally. The answer to this criticism lies in the development of the principle of primary agency responsibility coupled with rigid standards-setting and inspection by the Civil Service Commission.[10]

Common Criticisms of Navy Procedure

In addition to the foregoing criticisms of agency grievance procedures generally, which are acknowledged by the Federal Personnel Council, there are other recognizable problems related to the administration of the Navy's grievance procedure system. To the individual who is placed in a supervisory position over civilian employees of the Navy, and who, over a period of years, acquires a background of experience in adjusting grievance matters, there may develop a realization of the following items as common criticisms and as matters of fundamental importance in an appraisal of the present system:

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[9]Sub-Committee on Grievances and Appeals, op. cit. p. 10.

[10]Ibid., pp. 10, 27, 28.

(a) "The Employee On His Own" Under existing Navy procedure, an employee is, for all practical purposes, "on his own" in presenting a grievance at the first stage. Although he can expect advice on procedural aspects from the personnel office, he cannot call upon qualified counsel to present his case for him as is common in industry. A concession of some small significance in this respect is provided in NAVI 80 which permits the designation of one fellow employee from the employee's own shop or office to accompany and represent him. The disparity in what might be expressed as the "positional power" of the immediate supervisor over that of the employee or a fellow worker serves, on occasion, as a deterrent to the presentation of a grievance. Since discussion with the immediate supervisor is the first step in the prescribed grievance procedure this "block," or at least reluctance, on the part of the employee can serve to negate or diminish the effectiveness of the entire procedure.

This reluctance to present grievances to the immediate supervisor is often influenced by the socio-economic status of the worker and is related to the position which the employee holds in the skill hierarchy of labor. An unskilled man employed in a labor gang performing casual work is much less prone to present a grievance and is more inclined to make the best of an unsatisfactory situation

than is the more articulate skilled machinist who realizes his services are of greater relative value to an organization. Nor does this reluctance apply, for example, to the civilian scientist in the Bureau of Ordnance or to the stenographer who can readily find another job. In any event, the assistance of qualified counsel, if desired by the employee, in presenting a grievance at the first stage would probably have the result of bringing more grievances to light--which, in the final analysis, is what any grievance procedure is expected to do.

The point can also be raised whether or not the restriction on representation in the first stage presentation of a grievance expressed in NCPI 80 is in accordance with basic policy as promulgated by the Secretary of Defense.

On this point NCPI 80 states: "It is preferable for the employee to present his own case, although if he so desires, one fellow employee from his own shop or office may accompany and represent him."[11]

The personnel policy of the Secretary of Defense states: "...in presenting a grievance, an employee shall be free from interference, restraint, or reprisal, and he may designate a representative of his own choice to assist him."[12]

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[11] Navy Civilian Personnel Instruction 80, p. 2.

[12] Statement of Personnel Policy for Civilian Personnel

It would appear that the stipulation in [illegible] to the effect that the representative must be from the same shop or office of the aggrieved employee constitutes an abridgement of the policy of the Secretary of the Defense which permits the designation of a representative of unlimited choice without restriction.

(b) "<u>The Immediate Supervisory Level as the Initial Hurdle</u>" Assuming that the individual employee has overcome his reluctance to act "on his own" and has registered his grievance with the immediate supervisor, the contention is occasionally advanced that the immediate supervisor may attempt to stall, cloud the issue, or indulge in "horse trading" with the aggrieved employee in the hope that the problem will thus solve itself. While the grievance is still in the verbal stage, the reaction of many minor supervisors is that the aggrieved employee can be "talked out of it." As a result, a still greater dependence and premium is placed on the determination and resoluteness of the individual employee in seeing his grievance through to a fair and equitable hearing. The question may fairly be asked whether employees in the practical situation lacking collective strength, can reasonably be expected to display an attitude of high purpose and steadfastness in pushing their grievances beyond this first stage if a

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<u>in Department of Defense of October 13, 1949</u>.

reactionary attitude appears on the part of the immediate supervisor.

Most administrators, undoubtedly, have encountered such situations within the scope of their own experience. While occupying a position of responsibility in the Public Works Department of a major shore activity, the writer has been approached by employees with grievance complaints of one type or another; some of which were probably spurious, and others well-founded. In such a situation, all that the administrator can openly do is to advise the employee to seek relief in the prescribed grievance procedure, explain the operating details of the system, and refer the employee to his immediate supervisor for a discussion of the grievance. Meanwhile, the administrator is warned of a potential focus of trouble in his organization and may sharpen his control of that particular unit without destroying the confidence of the employee. Subsequently, on informally checking to determine whether the employee was satisfied with the treatment received, very frequently it was determined that the employee decided to drop the entire matter. On one occasion an employee explained his action this way: "I've worked here for five years and I hope to work here many more. Mr. X (the supervisor) will be here a good many years after you military administrators are transferred. He is the fellow I have to placate."

Correction of such situations as these can proceed

on two fronts. One is by more effective training of supervisors in the proper handling of grievances.[13] The second, by strengthening the collective hand of labor in the process of presenting grievances. This latter process is fraught with complications in Federal employment as will be mentioned in a later chapter.

(c) "Delay in Handling Grievances--Administrative Lag" Another frequently encountered criticism which Navy employees direct at the grievance procedure is that supervisors above the first stage occasionally exhibit the tendency to place the grievance appeal on the "bottom of the basket," that is, to give preferential treatment to other administrative matters for which they are responsible and to tackle the somewhat onerous grievance appeals when they "have time" or "can get around to it." NCPI 80 on Grievances and Complaints establishes certain time limitations for handling grievances at the various appeal levels.[14] The phraseology of the NCPI is, however, susceptible to administrative manipulation. No sanctions are imposed for non-observance by management of time limitations. In the face of the delay which the occasional unprincipled supervisor can raise in front of a grievance

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[13] Michael J. Jucius, Personnel Management, p. 470.

[14] Navy Civilian Personnel Instruction 80, p. 6.

appeal, it is contended that the individual employee has little recourse for remedial action within his activity or agency.

This objection is not so much a criticism of procedure as it is a reflection on the individuals who administer the system. It is a truism that no system will be any better than the people who administer it. This certainly applies to grievance procedures. At the same time, efforts should be exerted to strengthen procedures. One possible solution to this particular complaint is that provision be made for employees to by-pass a particular level of appeal and be granted the right to proceed to the next higher level after a reasonable period of time has elapsed without action at a lower appeal level.

(d) "No Central Reporting of First Stage Grievance Discussion" The absence of a system of central reporting of first stage grievances at the activity level is sometimes viewed, if not as a deficiency, at least as a lost opportunity for higher management to learn many of the common causes of employee complaint and dissatisfaction. It is contended that if the potential sources of grievances were known, management could then anticipate "foci of infection" for grievances and take steps in advance to eliminate them. The experience of first stage grievances, if resolved satisfactorily between employee and immediate supervisor, or if not appealed to a higher stage, is lost

to management as a means of improving procedure and bettering employee relations generally.

Adequate records of grievance situations and a disposition to "follow up" solutions to determine the efficacy of the remedy are of importance from the standpoint of management.[15] No less important is an alert interest in eliminating potential sources of grievances. To assist management in forestalling grievances, the creation of a system of centralized reporting of first stage grievance discussions would be of benefit. Such data could be presented in statistical form and need not necessarily be identified as to individuals concerned. In this way the informal relationship of first stage grievance discussion between employee and supervisor would be maintained. At the same time, higher management could benefit by a general knowledge of conditions which tend to generate grievances.

(e) "No Review or Audit of Second and Third Step Grievance Appeals" Another critical reaction to the present Navy Department grievance procedure is that a formal method of audit or review of second and third stage grievance appeals should be devised in order to protect employee interests. Under existing procedures in NCPI 80, any grievance appeal which is not carried to the fourth stage (the Bureau concerned and the Under Secretary of the Navy)

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[15] Jucius, op. cit., pp. 476, 480.

in succession to a wide variety of controlling elements and behavior for multiple relational contexts.

Advanced results of intensive clinical work and a distinction in "levels of analysis" suggested the existence of the "strong but not necessarily linear and mechanistic" relationship of an adult's learning to adjusting psychotic reactions in schizophrenia. In order to analyze consequences in investigating psychotherapy the evaluation of a system of conditional monitoring of light stimulus differences would be of benefit. Such data would be presented in statistical form and would not necessarily be identified as to individual responses. In this way the informed relationship of this study psychotherapy discussions between multiple and a-priority would be determined. As the case stand, future experiments with presents by a general knowledge of conditions which lead to generalize behaviors.

(4) "To develop an model of behavior and their [illegible] interview strategy." Analyzing original transcripts in this research have developed interview strategies in view a formal method of study of series of [illegible] and their effect upon subjects should be utilized in order to produce multiple hypothesis. These analytical procedures in this [illegible] exploratory research which is not related to the theory about [illegible] assumptions are not under consideration at the [illegible]

[illegible] op. cit., pp. [illegible].

remains a local activity matter. A record of grievances is kept by each activity indicating the nature and the disposition of any grievance carried beyond the first stage. However, it remains but a local record. It is contended that the alertness of local management in administering grievance complaints would be sharpened if the foreknowledge existed of periodical or surprise review and audit by an upper echelon or another agency.

The task of handling grievances is one that all levels of an organization must assume.[16] On this basis it is to be expected that the effectiveness of the Navy's grievance procedure could be enhanced by a more active participation of upper command echelons in the field of audit and review of the grievance case histories at the local activity. No formal requirement of this nature is now expressed in NCPI 80.

(f) "Lack of Awareness by Employees of Grievance Procedure" It is not an unusual experience for an administrator in the Navy to encounter civilian employees, some whose employment is of many years duration, who are completely unaware of the existence of an established procedure for adjusting grievances. Thus the occasional criticism is voiced that Navy management has been deficient in establishing adequate training and educational programs

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[16] Jucius, op. cit., p. 433.

for employees so that, among other things, the details of the grievance procedure are known to all.

This complaint is not one which reflects against the established grievance procedure as such, but rather is indicative of poor communication within the particular organization concerned. No system can be expected to function of itself at a level of efficiency above that of its human administrators. An authority on personnel management states that methods of handling grievances is one of several most important topics which should be made the subject of employee conference and discussion at successive levels of authority with the objective that all hands are to be thoroughly informed. As Jucius aptly states, "...the ultimate aim should be unlimited coverage."[17]

(g) "Employee Groups Have No Voice in Selection of Field Grievance Advisory Committee for Third-Step Grievance Appeals" The review of a grievance appeal by an impartial board at the third stage and the submission of the Board's recommendations to the commanding officer of the activity for guidance in arriving at a decision are important elements in the established grievance procedure. However, the manner in which the members of the board are designated, as set forth in NCPI 80, by appointment by the commanding

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[17] Jucius, op. cit., pp. 304-307.

officer, is occasionally subjected to question by employee groups. The position is taken that a unilateral determination of board membership by management does not lead to strict impartiality in its deliberations and submission of recommendations. This criticism points up the somewhat delicate problem as to precisely what role, if any, should be played by employee groups or the aggrieved employee in determining, or participating in the determination, of the membership of the board.

The Sub-Committee on Grievances and Appeals of the Federal Personnel Council considers that competent fact finding by an impartial board is the touchstone for arriving at equitable solutions to problems presented in employee appeals.[18] The present standards of the Civil Service Commission, which establish general governing conditions for grievance procedures adopted by individual agencies, require that employees be given the opportunity to present their grievances to a standing board composed of employees of the agency. In no way is it stated in so many words that the board must be impartial. The more or less implied objective of impartiality is defined principally in terms of qualifications by which members of the hearing boards are determined.[19] In NCPI 80 the impression

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[18]Sub-committee on Grievances and Appeals, op. cit., p.21.

[19]Loc. cit.

of impartiality is carried in the following sentence:

> Responsibilities. It shall be the responsibility of the Field Grievance Advisory Committee to review and investigate grievances appealed from the second stage and to make recommendations thereon to the commanding officer only after full and fair consideration of all the facts of the case.[20]

It is only fair to point out, however, that there is no stated requirement that the recommendations be arrived at in the light of the facts as determined, but only to make recommendations after the facts had been fully and fairly considered. There is a not too subtle distinction.

To promote employee confidence in the hearing board it is desirable that employees participate in some manner in the designation or selection of its members.[21] Exclusive authority to designate members by management engenders criticism of the board as management dominated and lessens its prestige in the eyes of employees as an impartial fact finding group.

Some federal agencies have countered this objection by making provision for some form of direct employee participation in the selection of members of the hearing board. This represents an extreme view and is open to the serious objection that it may tend to undermine or diminish manager-

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[20] Navy Civilian Personnel Instruction 80, p. 4.

[21] Sub-committee on Grievances and Appeals, op. cit., p. 21.

ial authority and responsibility. There are two methods now in use in certain federal agencies whereby employees participate directly in the selection process. They are:

(a) One member selected by management; one member selected by employees (or aggrieved employee); and, the third member selected by mutual agreement of the first two members.

(b) Selection of board members from a panel which had previously been elected either in whole or in part by employees of the activity.

In order to avoid direct employee participation in the election of the Field Grievance Advisory Board and, at the same time, to negate the charge of management domination of the board, the sub-committee of the Federal Personnel Council recommends the selection of board members by management with the individual appointees being subject to challenge for cause by the employee.[22] The method of challenging jurors for a criminal court case could be cited to illustrate the point. Under the proposed method the employee presenting the grievance would have more assurance than at present of an impartial hearing. Also, the burden would be placed squarely on management to select members who are not only competent from the technical standpoint but who stand high in the

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[22]Sub-committee on Grievances and Appeals, op. cit., p.23.

respect and esteem of employees generally. The sub-committee states:

> ... this method provides complete flexibility and places full responsibility on management for selection of capable, well-qualified individuals to serve on the board. The indifferent quality of many hearing boards in the past has been one of the most vulnerable points in agency appeal systems.[23]

(h) "Lack of Statistical Information on the Scope of Grievance Occurrence" As noted before, there is no requirement in NCPI 30 that first, second and third stage grievance hearings be reported for the purpose of centralized review and statistical analysis. Under current procedure there is no record maintained of first stage grievances. Records of second and third stage hearings are filed at the particular naval activity where they occur. While it is known in a general way that such grievance hearings do occur, there is no convenient or practical way of ascertaining the frequency of grievances, the common course of grievances, the usual stage of settlement of particular types of grievances, and similar information which could be made meaningful by statistical analysis. The dimensions of the grievance problem in the first three stages actually remains unknown to higher management.

Fourth stage grievance appeals are, of course, submitted for consideration by Navy management at Washington.

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[23]Sub-Committee on Grievances and Appeals, op. cit., p.24.

However, there is no established procedure for compiling statistical data and publishing information on employee grievances, their causes and remedies, for the benefit of the administrator and supervisor at the working level.

A striking comparison could be drawn between the lack of statistical information furnished on grievance hearings and the very detailed information and statistical studies disseminated in the field on frequency and severity of lost-time accidents. The effect of lost-time accidents on operational efficiency is readily apparent; the effect of deficiencies in the operation of a grievance system can, in a less dramatic manner, adversely affect operational efficiency.

Summary

In the foregoing chapter a view of some common criticisms has been presented, not only of the current Navy employee grievance procedure, but also of Federal agency procedures generally. Some are undoubtedly valid in whole, others in part and under certain circumstances, and some may be of questionable validity. Having presented them for consideration, it is now the purpose of this thesis to center interest on general features of grievance procedures in collective bargaining contracts in industry and commerce with the view of determining whether practices exist in this extra-governmental field which may have

interest or application to the General area.

CHAPTER IV

REVIEW OF CURRENT INDUSTRIAL GRIEVANCE PROCEDURES AND ELEMENTS COMMON TO COLLECTIVE BARGAINING CONTRACTS

The industrial empire in our American economy is diverse and complex. It is affected by an almost endless variety of factors which make for non-uniformity. Likewise, there are a multitude of variables which are characteristic of American labor when considered in the aggregate. The possible combinations in which all these variables could be blended would indicate that no one grievance procedure is capable of universal application. And this is amply demonstrated by a review of the many different types of grievance procedures found in collective bargaining contracts.

Grievance complaints which originate with the itinerant mechanic in the building trades must necessarily be handled differently from disputes which arise in a mammoth industrial plant employing thousands of workers.[1] Similarly, a complex organization in a mass-production industry with several echelons of supervision requires a grievance procedure considerably different from that needed in the small

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[1]S. T. Williamson and Herbert Harris, Trends in Collective Bargaining, p. 120.

owner-operated and managed shop or store. Thus, the form of grievance procedure used in a particular situation is generally the fruit of experience in relations between management and unions in that situation over a period of time.

Plans which have been successfully used in handling grievance disputes range from the two-step procedure to the four or more step procedure.[2] Other variants may or may not include resort to arbitration if the step negotiations within the company and union relation prove fruitless.[3] Many collective bargaining contract procedures provide for union sponsorship of a grievance if the first stage of initial efforts at settlement fail. Other matters of interest include consideration of the role of the shop steward, the Employer Grievance Committee, and the Shop Committee. Another element of importance which greatly influences the success or failure of the grievance procedure is the time schedule established for successive hearing stages.[4] All these features of grievance procedures are worthy of further elaboration and consideration.

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[2]Williamson and Harris, op. cit., p. 120.

[3]John A. Lapp, How to Handle Labor Grievances, p. 89.

[4]Edwin C. Hobbins and others, Collective Bargaining Contracts, pp. 253-289.

Two-Step Grievance Procedure

The two-step grievance procedure is commonly incorporated in collective bargaining contracts negotiated between unions and relatively small industrial or commercial enterprises. The absence of several supervisory layers in management permits rapid referral of the grievance directly to the individual representing ultimate authority in the business, if the complaint is not settled at the lower level.

In operation, the two-step procedure calls for lodging the grievance or complaint by the aggrieved employee, or the union representative acting for him, with the foreman or supervisor. Assuming that the difficulty is not satisfactorily resolved at this level, the problem is then presented for settlement to representatives of both union and management, who possess power of negotiation and decision.[5] The contract may or may not provide for arbitration by a third party if these representatives cannot agree.[6]

Typical of the two-step grievance procedure is the provision incorporated in a contract between the Grays Harbor County Laundrymen's Association and Laundry Workers International Union--AFL which provides:

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[5]Lapp, op. cit., p. 90.

[6]Robbins, op. cit., p. 257.

> (a) Any employee having a grievance shall take up such grievance with the head of the department having proper charge where such grievance has arisen and endeavor to reach an adjustment in line with the provisions of this agreement.
>
> (b) If no mutually satisfactory adjustment of the grievance is thus consummated, the Business Agent of the Laundry and Dry Cleaners Union may then take the grievance up with the manager of the plant and endeavor to reach an adjustment of the grievance.[7]

As a general principle, grievances should be settled as near their point of origin as possible.[8] Thus the grievance plan which employs the fewest possible steps, giving due consideration to complexities of management organization, is most likely to succeed in furthering good industrial relations. Within limitations, stemming from the size of the enterprise, the two-step grievance procedure has inherent advantages of simplicity and of direct contact between the parties at issue.

Three-Step Grievance Procedure

The three-step grievance procedure represents an extension of the two-step system in that it provides for two appeal levels above the stage of filing an initial complaint by an employee, or his union representative, with

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[7]Robbins, op. cit., p. 257.

[8]E. Wight Bakke and Clark Kerr, Unions, Management and the Public, p. 396.

the employee's foreman or supervisor. It is designed for use in an enterprise in which there are more echelons of supervision than those mentioned under the simple two-step procedure.

Provisions as to the person who will represent management and the union at the three levels of action differ widely in collective bargaining contracts which contain the three-step grievance procedure clause. In general, however, negotiations would likely involve the following individuals:

(a) First Step--The aggrieved employee, or his union steward and the foreman or supervisor concerned.

(b) Second Step--Representative of the union above the shop steward position and a representative of management generally a departmental head or personnel officer.

(c) Third Step--An individual or committee representing the local, national, or international union and an individual or committee representing top management of the company.[9]

A variation in the usual relationship of those participating in the third-step negotiations is found in a contract between the Seattle Master Builders Association and the Seattle Building Trades Council--A F L in which a joint adjustment board, consisting of both union and management

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[9]Lapp, op. cit., p. 89.

agents, is empowered to render a final and binding decision on any matter at issue.[10] Assuming that the board is staffed with competent men sincerely interested in the promotion of good relations between management and labor groups, this procedure would have the advantage of fostering a more unified outlook and furthering the likelihood of arriving at a mutually satisfactory decision with less haggling and less prolonged discussion and negotiation.

Another interesting departure from orthodox procedures under the three-step plan is found in the collective bargaining contract between the Wallpaper Institute and the United Wallpaper Craftsmen and Workers--AFL. This contract empowers a Shop Committee representing the Union to operate at the second step as a screening device and to rule out any grievance complaints which it considers unjustifiable.[11] From a union point of view, such an arrangement facilitates union control. From the employee point of view, it limits his channels of redress. From a company point of view, it would tend to reduce unjustified complaints although, at the same time, it would have the very undesirable effect of suppressing situations which could continue to be foci of grievance infections and affect worker morale and production in an adverse manner.

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[10]Robbins, op. cit., p. 258.

[11]Ibid., p. 260.

An arrangement diametrically opposed to the shop committee screening procedure explained above, is to be found in a contract between the Texas Company and the Oil Workers International Union--CIO wherein, as a second-step procedure, the aggrieved employee has the option of presenting his complaint through the representatives of the Union or individually through the representatives of any other organization or group of employees.[12]

Four-or-More-Step Grievance Procedure

The four-step method is the usual approach to handling grievances found in most collective bargaining contracts.[13] The larger the commercial or industrial enterprise, with a finer breakdown of responsibility between supervisory levels, the more necessary is it to arrange the grievance machinery to follow a similar pattern of organization. Invariably, the four-step procedure is characterized by a greater formality of proceedings and by more dependence on a detailed written account. Additional steps may be added as circumstances in a particular industry or business dictate.

As in the less complex plans, there is in contracts which contain the four-step procedure a wide variation in

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[12]Robbins, op. cit., p. 262.

[13]Lapp, op. cit., p. 83.

terminology as to the individuals, both union and management, involved at the several stages. Generalizing, however, the simplest type of the four-step procedure would involve the following individuals at the stages indicated:

(a) First Step - The aggrieved employee, or his union steward, and the foreman or supervisor directly in charge.

(b) Second Step - The aggrieved employee and a member, or members, of the union's shop committee, and the department superintendent.

(c) Third Step - The shop committee of the union and the works manager.

(d) Fourth Step - The shop committee of the union, with representatives of the national or international, and representatives of top management of the company.[14]

A review of four-step grievance procedure clauses found in collective bargaining contracts reveals appreciable differences as to operating details. Some contracts, such as that between Bell Aircraft Corporation and the United Automotive Workers--CIO, exclude the aggrieved employee from personal participation in the later steps of the grievance hearings and provide for exclusive Union presen-

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[14] Robbins, op. cit., p. 263.

tation of the employee's case.[15] Some advantages and disadvantages resulting from this approach can be visualized. From the standpoint of the Union and the Company, it would probably make for more harmonious and objective appraisal of the problem since the immediate participants, who are most likely to be somewhat emotionally aroused about the matter, are not present at the scene of discussion. Likewise, those problems which reach the final stages of grievance action are most likely to involve basic Company and Union policy and questions of mutual relations in which individual employees and lesser Union representatives should not be involved. On the other hand, a resort to what might be termed "star chamber" sessions between higher Union and Management officials on questions of individual grievance may well provoke disloyalty on the part of the Union member on the basis that his grievance is being used for "logrolling" purposes.[16]

A novel application of the four-step grievance procedure to a seagoing situation is found in the contract between the Marine Department of Standard Oil of New Jersey and the Esso Tankermen's Association--Independent. As might be expected, the grievance clause is designed particularly to meet the needs of the working situation afloat.

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[15]Robbins, op. cit., p. 267.

[16]Bakke and Kerr, op. cit., p. 396.

nation of the industrial state.[15] Some historians and statisticians remaining from this approach can be expected, from the acceptance of the factor-cost law hypothesis, it would generally seem the most informative and exploitable approaches of the problem since the economists particularly who are most likely to be concerned functionally interested about the matter are not interested in the whole of industrialism. Although, these problems which result from the final stages of derivative action are most likely to interest Dwight Eisenhower and labor policy and questions of industry relations in which industrial employees and labor union representatives should not be involved. In the other hand, a theory to what might be termed "near consensus" relations between higher union and management officials on questions of individual grievances but still involves directly on the part of the industrial state in the sense that its guidance is being used for "industrial" purposes.[16]

A novel application of the industrial grievance procedure as a negotiating situation in Israel is the company owned the Haifa Department of Chemicals (Z) of the Israeli and the Haifa Tnuvaseed's Association-Histadrut. In which be examined the grievance element is designed particularly to meet the needs of the working alienation effect.

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[15]Dunlop, op. cit., p. 207.

[16]Davis and Werr, op. cit., p. 164.

The usual four steps are involved in the grievance procedure. However, only the first two occur aboard ship. If the grievance is not settled in the first two stages, the problem is held in abeyance until the ship reaches its home port. In the meantime, the aggrieved employee is obligated to perform assigned duties without question. The sequence of the grievance procedure in this situation follows:

(a) First Step - Aggrieved employee, with Association representative, presents grievance to head of department aboard ship.

(b) Second Step - Aggrieved employee, with Association representative, presents grievance to Ship's Master.

(c) Third Step - Association representative and Operating Manager of Marine Department of the Company.

(d) Fourth Step - Board of Governors of Association and Manager of the Marine Department for the Company.[17]

Another variant in the use of the four-step grievance procedure is noted in the contract between the H. J. Heinz Company and the Canning and Pickle Workers--AFL. It involves substitution of an Employer Grievance Committee and a Union Factory Grievance Committee in the second and third steps in lieu of individual negotiations.[18] While

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[17]Robbins, op. cit., p. 265.

[18]Ibid., p. 265.

this procedure possesses the benefit of application of additional viewpoints, it also has the disadvantage of possible recourse to delaying, or perhaps obstructionist, tactics by a minority.

Function of Shop Steward or Union Representative

Successful application of the grievance procedure stated in the collective bargaining contract and the initial translation of its cold legal provisions to a work situation, charged, perhaps, with aroused emotions, is dependent largely on the skill, understanding, and ability of the Union representative at shop level. The individual serving in this position is generally referred to as the Shop Steward or Shop Committeeman. In some respects, the steward's responsibilities are greater than that of the foreman.[19]

The importance of the position in the furtherance of good working relations warrants a consideration of the duties of the steward and the manner of selecting the individual.

Handling grievances for employees and representing employees at company hearings is the prime function of the shop steward.[20] In this capacity he is called upon to

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[19]Lapp, op. cit., p. 114.

[20]Robbins, op. cit., p. 268.

exercise a nicety of discretion in deciding when to prosecute a grievance vigorously through the prescribed procedure and when to dissuade the aggrieved employee from further action.[21] In this connection, the United Steel Workers of America has this to say to its stewards:

> Get both sides to every grievance. Don't make a final decision or public declaration until you know both sides of the grievance.
>
> Refuse to handle unjustified grievances. There are two kinds of unjustified grievances. First, the grievance that is not covered by the contract. Usually grievances not covered by the contract should be corrected, but you cannot do anything about it unless your contract covers it. Secondly, there is the grievance that is not supported by facts. Ascertain all the facts concerning every grievance submitted to you by your fellow employees. If the grievance is not supported by facts, be BIG ENOUGH to say so frankly. If a member of the union is not satisfied with your decision, he can always take it up at the union meeting.[22]

Contracts commonly specify the number of stewards required for its administration as well as the manner of their selection whether by appointment or election. The latter is a common method in organized shops. One steward for each department or one for every fifty employees is a somewhat common requirement of collective bargaining

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[21] Lapp, op. cit., p. 114.

[22] Loc. cit.

contracts.[23] In the printing crafts, the "chapel" in each establishment elects a "chapel" chairman. In the garment trades a "shop chairman" may represent a whole floor. Gangs of from eight to twenty longshoremen choose gang "stewards." In the automobile industry, there is one "shop steward" for every thirty to fifty workers. Steel and rubber workers either deputize shop stewards or elect from one to three grievance committeemen to represent entire departments of many hundreds of workers. Construction workers often have stewards to help business agents. The "pit committee," usually three men, is the basic representative unit of the coal miners.[24]

As a further recognition of the importance of stewards in operation of an efficient system of administering grievance action, contracts now commonly provide a special protective clause which grants highest seniority in their respective departments to union stewards, committeemen, or officials. The purpose of this provision is to avoid the possibility of disintegration of the grievance machinery as a result of layoffs. In an old well-established union in the crafts, this device is probably not particularly important since the employee selected for the steward assignment is, in most cases, a veteran employee with

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[23]Williamson and Harris, op. cit., p. 118.

[24]Loc. cit.

reasonably high seniority rights. Its principal advantage occurs in the protection of the continuity of the grievance system in less well-established industrial unions in mass production industries.[25]

Another important duty which devolves upon the steward is the reporting of any violations of terms of the contract, if he considers it necessary after observation and detection. In the vernacular, this function is often referred to as "policing the contract."[26] Here again is rare opportunity for building and cementing good industrial relations by the discreet use of authority. Conversely, the inept shop steward can cause a deterioration of good will and understanding between the union and management.

Function of the Shop Committee

Many collective bargaining contracts provide that shop committees be created to represent the general interests of the employees in grievance matters.[27] The manner and extent to which the work of the shop committee can be integrated into the prescribed grievance procedure is worthy of some consideration.

Under some contracts the shop committee supplants the

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[25] Lapp, op. cit., p. 113.

[26] Robbins, op. cit., p. 268.

[27] Ibid., p. 272.

shop steward and functions in the very first stage of a grievance complaint. This arrangement is typified by the contract between the Washington Times Herald and the Washington Newspaper Guild--C.I.O.[28] This procedure suffers, at times, from its greater formality. Personal discussion between the two parties immediately at issue does not occur. In the meantime, pending the convening of the committee, a further deterioration may occur in the situation affected by the complaint. Other contracts eliminate this disadvantage by bringing the shop committee into the scene only in the second or later steps of the procedure, thus permitting free discussion between the aggrieved employee and the shop steward on the one hand, and the foreman on the other, at the first step. It is of interest to observe that, according to one authority: "In some industries as high as 85 per cent of all grievances are settled at this (meaning the first) stage...."[29] There is a great advantage in preserving an informal atmosphere during the first step of the procedure.

The shop committee can function in a variety of other ways, as provided under various contracts,[30] by requiring a review of penalties and dismissals, by exercising a

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[28]Robbins, op. cit., p. 273.

[29]Williamson and Harris, op. cit., p. 121.

[30]Robbins, op. cit., pp. 273-275.

degree of appellate authority in reviewing lower level grievance actions, and by participating in joint, multi-plant committee work where the size of the business enterprise warrants such inter-plant collaboration.

The number of members on the shop committee is usually specified in the contract and may range from five to eight.[31] The method of selection of committeemen is usually by election. Certain standards such as citizenship, the ability to speak English, and a specified period of employment with the company are occasionally demanded.

Wide divergence of practice is noted in contract clauses pertaining to the conduct of the shop committee's business as to whether it is to be conducted on or off company time. Some contracts provide for meetings at regular intervals; other committees meet only on call. Certain contracts provide for committeemen to be paid by the union; more common is the proviso that the company pay them.[32] The relative bargaining strength of the parties at the time contract negotiations are under way generally determines such questions.

Use of Employer-Union Parallel Committee System

Some contracts establish separate employer committees

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[31] Robbins, op. cit., pp. 277-278.
[32] Ibid., p. 276.

to represent the interests of management throughout each stage of the grievance procedure. And on the side of the union a parallel system of committees is created to present the employee's case.[33] Use of different committees representing union and management at each of three or four stages of grievance action can give rise to procedural questions of such complexity as would outshadow the original grievance complaint! It might not be unfair to suspect that such a multiple committee system would probably have the result of preventing the solution of grievance problems rather than facilitating their solution.

Time Schedule for Handling Grievances

Ultimately, any grievance procedure depends for its success on good will, together with an appreciation by each side of the other party's point of view, and a mutuality and singleness of purpose in striving for an equitable solution. No better evidence of this spirit can be found than in the prompt consideration of grievance complaints at all levels of responsibility. The Department of Labor has this to say:

> Nothing is more important about grievance settlement than promptness. Grievance proceedings that drag out usually give rise to a suspicion of stalling. In such a case, even a favorable

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[33] Robbins, op. cit., p. 280.

decision is likely to be criticized as having been yielded begrudgingly.[34]

To establish desirable time schedule standards in adjusting grievances, most collective bargaining contracts specify with greater or less precision the mutual objectives of the parties in this respect. One extreme can be illustrated by the contract between the Bendix Aviation Corporation and the United Automobile Workers--CIO which loosely states: "There shall be no unnecessary delay on the part of Company or Union representatives in settling grievances."[35] Other contracts are precise to the extent that grievance complaints must be registered by the aggrieved party within a specified time after the cause of grievance arises. Many contracts provide a time limit for consideration of grievances at each step, as for example, a five-day limitation under which the aggrieved, or his union representative, has a right to proceed to the next appeal level if no decision is forthcoming within the five-day period at the lower level.[36] Provisions of the latter type would appear to have definite merit as a brake on the tendency which might exist on the part of some supervisors to adopt stalling tactics in the vain hope

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[34]Bakke and Kerr, op. cit., pp. 639-640.

[35]Hobbins, op. cit., p. 283.

[36]Ibid., p. 285.

that the situation which gave rise to the complaint would somehow correct itself.

Special Clauses

The contract provisions discussed earlier in this chapter set forth the mutual responsibilities of both parties in a positive way. Clauses occasionally are found in typical contracts which are designed to protect the employee and in this sense are neither negative nor restrictive in their purpose. They are designed to affirm positively an implied right of an employee to present his own grievance as an individual or to prevent discrimination by an employer against the employee for so doing. Typical of the former is the contract between the Houston Pipe Line Company and the Oil Workers International Union--CIO which states:

> Nothing contained in this agreement shall limit or impair the right of any individual, or group of employees, of the Company to present grievances to the Company at any time.[37]

The anti-discriminatory clause, designed to protect employees who elect to seek redress of their complaints through the medium of the grievance procedure, is typified by the following excerpt from the contract between the Coleman Lamp and Stove Company and the Coleman Employees

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[37]Robbins, op. cit., p. 286.

Education--Independent:

> The Company agrees that there shall be no discrimination against or criticism of any employee because of any grievance brought either to the Management or to the Grievance Committee, nor for any testimony or evidence presented by any employee in any grievance committee hearing or conference with Management relative thereto, so long as such information or testimony is made in good faith....[38]

An unusual clause of the protective type forms a part of the H. J. Heinz Company contract with the Canning and Pickle Workers--A.F.L. With respect to protecting employees who set the grievance machinery in motion, it states:

> Nothing herein shall be construed as altering or in any way diminishing the established policy of the Employer which permits any employee to consult or confer with the Directors of the Employer.[39]

Conclusions

The salient points gleaned from a review of current grievance procedure clauses as found in collective bargaining contracts are:

(1) The grievance procedure should be as simple as possible and involve a minimum number of appeal levels consistent with the supervisory structure of both management and union.

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[38] Robbins, op. cit., p. 286.

[39] Ibid., p. 287.

(2) The aggrieved employee is not waging a lone battle in presenting a grievance under the typical collective bargaining contract. At the very outset, the grievance complaint is given the attention of the Union representative, and if considered justified, is assumed by the Union as a Union responsibility in seeking a fair settlement.

(3) Shop committees and employer committees acting in concert have an advantage in diversity of viewpoint resulting from the greater number of participating members; however when the employer or shop superintendent deals with the union representative, prompt action may be more likely to occur.

(4) A rigid time schedule for transferring unresolved grievance complaints to the next higher level is important. The provision that the aggrieved employee may proceed to the next higher level of appeal, if action is not forthcoming at a lower level within a specified time, is significant.

(5) A grievance should be settled as near the point of its occurrence as possible.

CHAPTER V

COLLECTIVE BARGAINING BY GOVERNMENTAL AGENCIES AND EMPLOYEE UNIONS IN RELATION TO GRIEVANCE PROCEDURE--THE CASE OF THE TENNESSEE VALLEY AUTHORITY

Thus far, the existing grievance procedure in the Navy Department and some operating methods for adjusting grievances in the industrial and commercial world as expressed in collective bargaining contracts have been considered. The procedures which the Navy Department follow have been developed within the legal framework prescribed for the various departments of the government and are circumscribed by a multitude of legislative enactments, Civil Service rules and regulations, as well as Executive Orders of the President. By contrast, the methods of commerce and industry for adjusting grievances are less flavored with formality and serve to reflect the relative bargaining strength of management and unions at a given time. The question occurs to the observer as to whether it is possible, or practical, in a governmental agency to adopt policies and procedures more akin to industrial practices and of greater responsiveness to the legitimate needs and desires of the employees. In pursuing this speculation, it is pertinent to consider briefly the right of Federal employees to organize in their own behalf. And as an extension of this right, it is in point to analyze a typical instance of

the manner in which collective bargaining between management and employees operates in the Federal employment field with particular interest centered on its effect on grievance procedures. The Tennessee Valley Authority will be used for purposes of illustration to indicate the manner in which a governmental agency has, through the medium of collective bargaining, adopted methods of adjusting employee grievances which are similar in many respects to those of private industry.

Unionism and Employee "Group Dealing" in the Public Service

Unionization activities among public employees in the United States had its beginnings in the 1880's with efforts at organization centered on postal workers, policemen, and teachers. This movement came as an aftermath of the Spoils System which prevailed prior to the passage of the Pendleton Act in 1883, the root of the present Civil Service system. Organization of skilled and semi-skilled workers among the public employees followed along with the general labor movement in the United States of the late nineteenth and early twentieth centuries. The first union of Federal employees emerged in the postal service.[1] There was no congressional recognition of the trend toward unionization among Federal employees until 1912 when the

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[1]Office of Industrial Relations, Circular Letter, 6 Apr 1950, subject: Relationships with Organized Labor, p. 12.

Lloyd-La Follette Act was passed. By this legislation, the right of employees of the federal civil service to form organizations was formally recognized.[2]

With the exception of postal workers, skilled, and semi-skilled workers, there was little tendency on the part of other government employees to organize until the years 1916-1917, when living costs skyrocketed with the first World War. The dissatisfaction among government employees with low salary standards of the period gave rise to the first important organization among such employees with the formation of the National Federation of Federal Employees in 1917. Since that time the fortunes of Federal employee unions have followed the general pattern of the labor movement over the past thirty years in the United States with a period of general decline in the 1920's and early 1930's, followed by a vigorous resurgence in the middle 1930's and 1940's.

Among the established governmental departments, such as the Navy, employee unions are recognized as a medium for group dealing.[3] By the term "group dealing" is implied the process whereby employees submit recommendations or suggestions. Such matters are then reviewed by management

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[2]Leonard D. White, Introduction to the Study of Public Administration, p. 455.

[3]OIR, Circular Letter of 6 April 1950, p. 15.

and decision rendered within its administrative discretion on the basis of a full and fair consideration of the facts.

Contrasted with the "group dealing" concept of the established governmental departments is the "collective bargaining" procedure and labor contract method of the Tennessee Valley Authority. This agency has, by reason of its corporate structure and freedom by legislative action from the departmental pattern, adopted unique methods of personnel administration as is reflected in its grievance adjustment process. As a matter of policy the Tennessee Valley Authority encourages unionization, maintains and promotes the means of negotiation with employees and readily enters into written labor contracts with representative employee unions.[4] One writer has characterized the personnel program of the Tennessee Valley Authority as "dynamic."[5]

The Grievance Procedure of the Tennessee Valley Authority

Having been established as "a corporation clothed with the power of government but possessed of the flexibility and initiative of a private enterprise,"[6] it is to be expected that in problems of personnel administration

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[4]White, op. cit., p. 457.

[5]C. Herman Pritchett, The Tennessee Valley Authority, A Study in Public Administration, p. 4.

[6]Seventy-third Congress, First Session, 1933, House Document 15.

The TVA has followed vastly different procedures from those of the several departments, bureaus, and offices of the government. The Tennessee Valley Authority's policy and procedures on the adjustment of employee grievances bear close resemblance to those of progressive industrial enterprises.

A similarity exists between the Navy's procedure and the Tennessee Valley Authority's method of adjusting grievances only through the first and second steps. Beginning with the third stage, the Tennessee Valley Authority method follows an industrial pattern, including the use of arbitration. A detailed consideration of the Tennessee Valley Authority's procedure follows.

<u>The Tennessee Valley Authority's Definition of an Employee Grievance</u> - Labor disputes spring from two sources. The first may be considered as arising from differences of outlook between employees and management on matters of policy concerning pay, hours of work, and working rules and conditions. Difficulties such as these are resolved through direct negotiations between the management of Tennessee Valley Authority and the employee unions concerned. The resulting agreements are expressed in the written labor contract and the provisions thereof can be changed only as a result of further contract negotiation. Thus it is that labor contracts of this nature eliminate a large area of possible contention between employees and

their first and second line supervisors. The second type of labor dispute arises when an employee believes he has been treated unfairly or in a prejudicial manner by his supervisor in the application of an established policy. It is this type of dispute which is considered as a "grievance" under the Tennessee Valley Authority definition. And it is for this type of grievance that the Tennessee Valley Authority grievance adjustment procedure has been developed.[7]

The Tennessee Valley Authority outlook on union participation in grievance procedures. - The Tennessee Valley Authority policy of encouraging employee unions finds expression in its stated grievance procedure. In addition to acknowledging that union members would normally request their union representative to handle grievance actions for them, the Tennessee Valley Authority proceeds a step farther and advises its supervisors to suggest to employees who wish to file a grievance to discuss the matter with the union representative and request the union representative to participate in the hearing. Moreover, in the event that the employee does not bring his union representative into the grievance action voluntarily, it is considered by the Tennessee Valley Authority to be in order

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[7]Tennessee Valley Authority, Tentative Draft of Revised Handbook on Grievances, November 1, 1950, p. 1.

for the supervisor to notify the union representative of the grievance and invite him to participate in the discussion or hearing. At the same time, an employee may elect to handle the grievance personally or to specify an individual other than his union agent to represent him. However, the stated preference of the Tennessee Valley Authority is that it is desirable to have union representatives participate in the handling of grievances inasmuch as basic policies and regulations governing employees are arrived at in the first instance as a result of negotiations or clearance with the unions.[8] If an employee selects a person other than his union representative to assist him in handling the grievance, that particular individual is considered only as a personal representative. In this case, the collective influence of the employees' union is not brought to bear during the adjustment process. And, contrary to the conventional outlook of the governmental employer, the absence of union participation is considered disadvantageous by the Tennessee Valley Authority.

Procedural Details for Adjustment of Grievances. The First Step - The Tennessee Valley Authority grievance procedure is similar in its first stage to other grievance plans generally used in industry, commerce, and governmental

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[8]Tennessee Valley Authority, Tentative Draft of Revised Handbook on Grievances, p. 5.

agencies. The employee first discusses his grievance with his immediate supervisor. With regard to the importance of this step the Tennessee Valley Authority has this to say to its supervisors:

> By far the majority of misunderstandings and grievances are not carried beyond the discussion with the employee's immediate supervisor. Even if not satisfactorily explained or adjusted, a grievance may be dropped. It is, therefore, exceedingly important to the Tennessee Valley Authority that grievances be handled carefully at that point and that every effort be made to reach an adjustment which is mutually satisfactory and in compliance with Tennessee Valley Authority policies. It is acknowledged that grievances can be squelched, but this is not helpful. Everyone, especially Tennessee Valley Authority, loses in that process....[9]

In conducting the first stage discussion with the aggrieved employee, or his representative, the immediate supervisor may arrange for participation of second line, or even higher level supervisors, if he so desires.[10]

The Second Step - In the event that a satisfactory adjustment of the grievance does not result from the first-step discussion between the employee and the immediate supervisor, an appeal may be submitted to the director of the Tennessee Valley Authority division by which the aggrieved

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[9]Tennessee Valley Authority, Tentative Draft of Revised Handbook on Grievances, p. 4.

[10]Tennessee Valley Authority, Interdivisional Instruction on Grievances, p. 2.

individual is employed. This second step in the grievance procedure of the Tennessee Valley Authority is at a comparable level of authority with the third step of the Navy's grievance procedure which involves the commanding officer of the activity. Unlike the Navy's procedure, however, there is no review by a board of fellow employees acting in an advisory capacity. The Tennessee Valley Authority's second step in the grievance procedure may be conducted on the basis of a hearing before the director of the division or by a review of the record of the case depending on the wishes of the employee or his representative or the divisional director. A time limitation of three weeks after receipt of the request for review or completion of the hearing is established within which time the director of the division must render a decision on the grievance. Further rights of appeal may be exercised by the employee if made within two weeks of the date of decision by the director of the division. If no appeal is made within the time limit the case is considered closed.

The Third Step - If the decision of the divisional director is not acceptable to the employee, a further appeal may be submitted to the Director of Personnel of the Tennessee Valley Authority. Normally, the Director of Personnel makes his decision on the basis of the record as compiled from the preceding two stages. However, it is within his authority under the prescribed procedures to conduct

supplementary hearings or to request additional information on an individual basis from any of the parties involved in the dispute. If the latter is done, the regulations provide that all parties concerned be furnished copies of the additional information and that they be permitted to submit such comment as may be desired in connection therewith. The Director of Personnel is required to reach a decision on the appeal within three weeks following the date on which he originally received the complete record of the case.

The third step appeal to the Director of Personnel of Tennessee Valley Authority constitutes the final stage in which the grievance can be settled in an administrative manner and may be considered as analogous to the fourth step of the Navy's system involving the Secretary of the Navy. However, under the Tennessee Valley Authority system there is a further avenue of redress of employee grievances if all previous efforts of an administrative nature have proved fruitless. This involves joint conferences between the Union and the Director of Personnel and the operation of the Joint Board of Adjustment. The latter consists of representatives of Tennessee Valley Authority management and the employee's union. Such a method constitutes a unique departure from conventional practice in the adjustment of employee grievances in governmental agencies and is worthy of a somewhat detailed

consideration.

Joint Conference, Adjustment and Arbitration.[11]

If an employee grievance has not been satisfactorily adjusted by means of the process of successive administrative appeal to the immediate supervisor, the divisional director, and the director of personnel, the dispute may then be made a matter of mutual consideration between the Tennessee Valley Trades and Labor Council and Tennessee Valley Authority management. These parties meet for the purpose of further review or adjustment of disputes while acting in joint conference. Complete recognition of the union as the agency representing the whole interests of the employee is extended by Tennessee Valley Authority management at this stage. This constitutes a unique outlook on an employee union by the governmental agency when acting as an employer.

Assuming that the dispute still resists settlement after the joint conference phase, the Tennessee Valley Authority grievance procedure follows a still more unusual departure from conventional procedures adopted by governmental agencies. By petition of either party, the dispute may then be presented to a Joint Board of Adjustment. This Joint Board of Adjustment is composed of four members,

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[11] Tennessee Valley Authority, Interdivisional Instruction on Grievances, pp. 3-4.

including two representatives with alternates designated by the Tennessee Valley Trades and Labor Council and two members with alternates selected by Tennessee Valley Authority management. Membership on the Joint Board of Adjustment is limited to one year. A procedural restriction prevents a board member from functioning in a particular grievance appeal if that particular member was a participant in any of the preceding efforts at administrative settlement of the case. In this event, the alternate member acts on the Joint Board of Adjustment. In the conduct of its proceedings, the board selects a chairman and secretary from its own membership of four persons. At any given time, the two offices cannot both be held by representatives of the union or of management. In other words, when the elected Chairman happens to be a representative of the union, the secretary must be elected from Tennessee Valley Authority management's representatives, and vice versa. The elective offices are held for one year and must alternate between union and Tennessee Valley Authority representatives. The Board is empowered to formulate its own rules for the conduct of proceedings in hearing contested appeals and in the rendering of decisions. In the settlement of any dispute brought before the Joint Board of Adjustment, the Tennessee Valley Authority regulations provide that a majority vote of the four members will govern.

Since four members constitute the Joint Board of Adjustment, with its membership equally divided between the Tennessee Valley Trades and Labor Council and Tennessee Valley Authority management, it is apparent that deadlocked issues could result if the board aligned itself with two votes each on the pro and con aspects of a particular grievance. Under such circumstances no majority vote could occur. To meet this eventuality, the Tennessee Valley Authority grievance procedure prescribes a final determination by arbitration. The decision of an impartial referee is requested in the event that the Joint Board of adjustment finds itself unable to render a majority decision on any grievance submitted to it within sixty days after completion of the hearings. The referee is selected by the Joint Board of Adjustment from a panel of five suitable persons designated by the board at its first meeting. An agreement between the union and the Tennessee Valley Authority management provides that the decision of the referee will be accepted as final by both parties. Expenses incidental to the arbitration phase are shared equally by the Tennessee Valley Trades and Labor Council and the Tennessee Valley Authority.[12]

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[12]Tennessee Valley Authority, Interdivisional Instruction on Grievances, p. 4.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

A. The Applicability of Industrial Methods to Navy Conditions and Problems

From the procedural point of view there is appreciable similarity between the grievance adjustment methods of industry and the Navy's method of handling employee grievances as stated in NCPI 80 on Grievances and Complaints. This is particularly true in the early stages of grievance procedures which involve first and second line supervision. In the later stages of industry's methods of adjusting grievances there is an emphasis on multi-party negotiation. This is followed, if necessary, by arbitration of differences. In contrast, is the Navy's method of successive appeal through administrative levels to the Under Secretary of the Navy with advisory boards functioning at two points in the administrative chain.

The procedural differences which do exist between the methods of industry and the Navy, particularly in the later stages of grievance adjustment, are largely a reflection of the difference in power between the unorganized or loosely organized employee group and the highly organized militant labor union. In the former case, prime dependence must be placed on the spirit of fairness and objectivity

of the administrators in earnestly and impartially striving for equitable adjustments of employee grievances. In the latter case, bargaining strength tends toward equality and solution of employee grievances may conceivably result in a test of power between the parties in the labor contract. Since use of militant tactics, or the strike weapon, by a government employee is considered contrary to public policy and is forbidden by law[1] it follows that prime dependence in the Navy situation must be placed on improvement and perfection of administrative processes for the prompt and equitable adjustment of the grievances of civilian employees.

Another factor which limits the application of industry's more direct and streamlined procedures to the Navy situation in adjusting employee grievances is the greater geographic scope and occupational variety of Navy employment as compared with most industries. Industrial grievance procedures incorporated in collective bargaining contracts are generally negotiated on a plant basis even for those corporations which operate on a national scope. Points of view by both parties are local. In contrast, the Navy operates on a continent wide and extra-continental basis. Personnel policies of the Navy, including grievance

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[1]Office of Industrial Relations, Circular Letter of 6 April 1950, Relationships with Organized Labor, p. 18.

procedures, must be designed to meet the variety of conditions encountered in a far flung organization, at the same time preserving uniformity and consistency in the treatment accorded all employees.

A third element which tends to limit the applicability of industry's methods of grievance adjustments to the Navy situation is the necessity for conformity with prescribed standards adopted for the several departments of the federal government. On the other hand, it has been shown in the case of the Tennessee Valley Authority that a governmental agency can follow less traditional methods in personnel administration if it is permitted to do so by legislative authority. The emphasis on union recognition and the adoption of arbitration procedures in the adjustment of grievances by the Tennessee Valley Authority which is similar to private industry would not be possible at the present time within the departmental framework of the federal government under which the Navy operates.

B. Suggested Improvements in the Navy's Grievance Adjustment Procedure

Consideration of the commonly encountered criticisms of grievance adjustment procedures of Federal agencies in general and that of the Navy Department in particular, against the background of current practice in industry where applicable, leads to certain recommendations wherein

either the structure of the current Navy grievance procedure, or the application thereof, could be improved:

1. Provide for unrestricted representation of an aggrieved employee in the first and second stages of the grievance procedure. Under SECNAVINST 80, the aggrieved employee is limited in his selection of individuals to represent him in the grievance adjustment process to fellow employees of his own shop or office. In some cases, particularly in those occupations which are relatively low in the hierarchy of skill, this restriction can operate to squelch grievances due to real or imagined lack of ability in use of language by the aggrieved employee or his fellow workers who are now the only eligible source of representation. Since the only reason for having a grievance procedure is to bring real or imagined grievances out in the open so that they can be dealt with by management, it would appear short-sighted to impose restrictions on representation which can have the effect of suppressing free and open discussion of complaints at their very source. The striking difference between industry's method of adjusting grievances and the Navy procedure is that in the former instance the aggrieved employee has a ready source of support and assistance in the presentation of his grievance in the person of the union steward and union officials. By contrast, the Navy employee, in a grievance situation, either acts alone or

with the meager assistance afforded by a fellow employee.

2. Permit aggrieved employee to by-pass a given appeal level in the grievance procedure in the event that action is not taken by that appeal level within a specified time. Navy Civilian Personnel Instruction 80 now provides that the various appeal levels should take action on a grievance matter within a specified time period. However, no sanction is provided for failure to do so. Also, the various appeal levels are authorized to delay action provided the employee is so notified together with a statement of reason for delay and information as to when action can be expected. To counterbalance the effect of this provision of NCPI 80, when used improperly by the occasional unprincipled supervisor, it is advisable that provision be made for circumventing a given appeal level when it appears that stalling tactics are being used in the hope that the grievance in some manner or other would solve itself.

3. Establish a reporting system for first-step and second-step grievance discussions so that management at the activity level will be aware of conditions and situations which are potential sources of more serious employee dissatisfaction. Under current Navy procedure in NCPI 80, employee grievances which are either satisfactorily resolved or merely dropped at the first or second steps are never brought to the attention of top management at the

activity level. The intent of this recommendation is to provide such information in statistical form only, so that management can alert itself to potential or incipient foci of grievance infection. It is not intended that the information so compiled be identified as to individuals, thus preserving the air of informality which, at times, is a distinct advantage in first and second-step grievance discussions. Under this recommendation the benefit of the experiences of first and second line supervision in meeting and handling employee complaints and grievances will not be completely lost to management at the activity level.

4. Establish an audit system for periodic review of third-step grievance hearings. Current procedure under MCI 80 requires that each activity retain a record of employee grievances which are carried to the third step. No review or audit of such records by a higher echelon is required, although it could perhaps be argued that the mere keeping of such records carries the implication of a possible review or audit. This recommendation is intended to create the situation whereby annual or semi-annual audits of such records be conducted by an upper echelon of command as a means of encouraging recognition of the importance of good grievance procedure administration by the activity.

5. Modify the present method of appointment of the Field Grievance Advisory Committee by the commanding officer

of an activity to include an opportunity for challenging individual members of the committee by the aggrieved employee. Under present Navy grievance procedure, the appointment of the Field Grievance Advisory Board at the third step is a function of the commanding officer of the activity. In order to allay employee fears that such a committee is a "rubber stamp" agency and is improperly responsive to the wishes of management, it is considered essential that a method be devised to enhance its stature in the eyes of the employees. It is believed that this objective can be accomplished by the appointment of the committee from a standing panel of employees previously designated by the commanding officer. Individual committee members could then be challenged by the aggrieved employee with the result that an alternate member of the panel be designated to serve. In this way there is a greater likelihood of confidence in the committee by employee groups and a greater incentive for management to appoint well-qualified persons to the standing panel and committee if it is known in advance that members so designated are subject to challenge.

8. Collect and publish statistics on a Navy-wide basis bearing on frequency and type of grievances, the stages of settlement and similar pertinent information. Compilation of information of this nature will serve to more clearly establish the dimensions of the grievance

or to provide in advance for monitoring the qualifying individual records of the candidates in the selection process. Under various civil rights/fair employment laws, the discrimination of the social institution defining based on the hiring step is a violation of the employment rights of the applicants. In order to avoid possible risks that such a condition is a "common sense" policy and is inherently supported by the theories of management, it is considered necessary that a policy be devised to minimize its impact in the eyes of the employees. It is believed that such objectives can be accomplished by the appointment of the selection task to a higher level of employees previously designated by the organization affiliation. Individual candidates should also be evaluated by the interviewed on those aspects that should not be intrinsic reason of the qualified be determined in advance. In this way there is a greater likelihood of fairness in the consideration of employee groups and a greater immunity for management to protest malfunctioning process in the selection phase and conditions if it is found in advance that reasons so considered are without an obviousness.

4. Collect and publish regularly on a year-wide basis training on financial and some of relevance, the effects of publishing the finding performed information. Availability of information of this nature will serve to some clearly establish the dimensions of the problems.

problem in the Navy. Higher management will be informed of the circumstances surrounding first, second, and third stage grievance hearings; it does not now have this information. At the same time, the Navy administrator, supervisor or personnel technician at the activity level will more fully appreciate the scope of the grievance problem, the common sources of grievances from the employee standpoint and the techniques of effective administration of the grievance adjustment system.

7. Improve training of supervisors and employees in application of grievance procedure. The preceding recommendations are concerned with improvement of the grievance adjustment structure, the formally prescribed processes in which grievances are presented through the various echelons of supervision for top level decision if necessary. No less essential is the necessity for continual training of all supervisors and workers alike, in the methods and objectives of the grievance adjustment system in the light of modern management techniques. In the final analysis, no grievance procedure can, of itself, resolve employee complaints and dissatisfactions. It can be effective only insofar as its human administrators sincerely want to make it effective in solving employee grievances and in improving industrial relations.

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